

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:07-CR-117-BR

UNITED STATES OF AMERICA

v.

LAURINDA HOLOHAN

SCOTT B. HOLLENBECK

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ORDER

This matter is before the court on defendant Holohan's motion for judgment of acquittal or for a new trial pursuant to Federal Rules of Criminal Procedure 29(c) and 33 and defendant Hollenbeck's motion for judgment of acquittal pursuant to Rule 29(c). The government has filed responses in opposition to both motions.

In ruling on a Rule 29 motion, the court must "sustain a guilty verdict that, viewing the evidence in the light most favorable to the prosecution, is supported by 'substantial evidence.'" United States v. Osborne, 514 F.3d 377, 385 (4th Cir. 2008)(citation omitted). "Substantial evidence" is "evidence that a reasonable finder of fact could accept as adequate and sufficient to support a conclusion of a defendant's guilt beyond a reasonable doubt." Id. (citation and quotation omitted). Considering all the evidence in the light most favorable to the government, the court finds that substantial evidence supports the verdicts.

Turning to defendant Holohan's alternative motion, "[a] district court may, in its discretion, award a new trial 'if the interest of justice so requires.'" United States v. Singh, No. 06-4338, __ F.3d __, 2008 WL 343637, *9 (4th Cir. Feb. 8, 2008)(quoting Fed. R. Crim. P. 33(a)). "Despite this deferential standard, however, . . . '[u]nder the applicable legal principles, a trial court "should

exercise its discretion to award a new trial sparingly,” and a jury verdict is not to be overturned except in the rare circumstance when the evidence “weighs heavily” against it.” Id. (citation omitted)(alteration in original). The court finds the evidence was sufficient to support the verdicts against defendant Holohan.

The motions are DENIED.

This 17 March 2008.

A handwritten signature in green ink, reading "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge